

### **REMARKS**

The Applicants appreciate the continuing thorough examination of the present application that is reflected in the Final Official Action. To narrow the issues for further consideration or appeal, independent Claims 1, 19, and 37 have merely been amended to respectively include the recitations of previously examined dependent Claims 5, 22, and 40 which have now been canceled. Claims 35 and 36 have been canceled. Applicants submit that amended independent Claims 1, 19, and 37 are patentable over the newly cited references for at least the reasons that will now be explained.

#### **Amended Independent Claims 1, 19, and 37 Are Patentable Over Hill in View of Ben-Shaul and Cooklev**

Because independent Claims 1, 19, and 37 have been amended to include the recitations of dependent Claims 5, 22, and 40, the patentability of the independent claims will be explained with regard to the references cited against those dependent claims. Applicants note that the Final Office Action does not appear to have clearly set forth the grounds for rejection of Claims 5, 22, and 40. The Final Office Action has rejected all of the pending claim over a combination of "U.S. Patent No. 6,768,738 by Hill et al." in combination with other references. However, Applicants note that U.S. Patent No. 6,768,738 is by Yazaki et al., not Hill et al. Instead, Hill et al. corresponds to U.S. Patent No. 6,865,153. Because the patentability of the pending claims has been previously explained with regard to Yazaki in their Amendment dated April 5, 2005, they explain below the patentability of the pending claims over U.S. Patent No. 6,865,153 to Hill et al. ("Hill").

Claims 5, 22, and 40 are patentable over Hill in view of Ben-Shaul and in further view of U.S. Patent No. 6,574,218 to Cooklev "Cooklev".

Amended independent Claim 1 recites (underlining added):

1. (Currently amended) A method of providing improved quality of service over a series of related messages exchanged between computers in a networking environment, comprising:

determining one or more transactional quality of service ("TQoS") values to be applied to the related messages;  
using the determined TQoS values when transmitting at least one of the related messages for delivery to a particular one of the computers, wherein the particular computer is a client computer;  
annotating selected ones of the related messages with information reflecting the determined TQoS values;  
transmitting the annotated ones of the related messages with the information reflecting the determined TQoS values from a server computer to the client computer;  
receiving the transmitted annotated messages at the client computer; and  
transmitting the TQoS values from the client computer to the server computer with subsequent ones of the related messages.

Accordingly, transaction quality of service ("TQoS") is determined for related messages, the related messages are annotated with information that reflects the determined TQoS values, and the annotated messages with the information that reflects the determined TQoS values are transmitted from a server computer to a client computer. Moreover, the annotated related messages from the server computer are received by the client computer, and the received TQoS values are then transmitted from the client computer to the server computer with subsequent ones of the related messages.

In contrast Hill, discloses that TQoS values are generated within a switch, and can be sent with outbound packets for internal use only by QoS shapers that "may be distributed throughout the switching modules and the switching fabric (not shown) that interfaces between multiple switching modules." (Hill, Col. 5, line 64 - Col. 6, line 1, emphasis added, See also Col. 4, lines 33-46, and Col. 8, lines 4-50). Hill does not teach or suggest any of the following recitations of amended Claim 1: 1) a server computer that can determine one or more TQoS values to be applied to related messages and annotate related messages with the TQoS values; 2) that such annotated messages could be transmitted from the server computer to a client computer, and received by the client computer; and 3) that the TQoS values from received annotated messages can be transmitted from the client computer to the server computer with subsequent ones of the related messages.

The Final Office Action also cites Ben-Shaul with the contention that it discloses "sending messages to a particular computer". However, the Final Office Action also acknowledges on Page 4 that "Ben-Shaul ... [does] not explicitly state sending the TQoS values to [a] server". The portions of Ben-Shaul cited in the Final Office Action appear to disclose redirecting of client requests based on which server contains pages that have embedded objects that are requested by the client. The "embedded objects" that are referred to in Ben-Shaul are within pages on a server. Applicants submit that none of the cited portions of Ben-Shaul disclose that a computer can annotate related messages with determined TQoS values, or that such annotated messages with TQoS values can be transmitted between computers, or that TQoS values received from annotated messages can be transmitted back to the sending computer with subsequent ones of the related messages. Accordingly, Applicants submit that Ben-Shaul does not teach or suggest any of the three recitations identified above as also lacking from the disclosure of Hill.

The Final Office Action also cites to Col. 7, lines 46-52 of Cooklev with the contention that it discloses "transmitting the TQoS values from the client computer to the server computer with subsequent ones of the related messages". (Final Office Action, Page 4). The cited portions of Cooklev are repeated below for reference (emphasis added):

The source coding rate is controlled ultimately by the client 112 (Fig. 2) based on the client's connection rate to the packet network 102 (Fig. 2). This rate can be communicated to the server at any time, and the source coding rate in a preferred embodiment is adaptive.

Applicants submit that the source coding rate communicated by the client 112 to the server is not a TQoS value that was received within an annotated message from the server. Moreover, the source coding rate is not transmitted "from the client computer to the server computer with subsequent ones of the related messages" as recited in Claim 1.

Accordingly, Applicants submit that if one who is skilled in the art were to combine the teachings of Hill, Ben-Shaul, and Cooklev, the combined references would not teach or suggest every one of the following recitations of amended Claim 1: 1) a server computer that can

In re: Roberto DeLima et al.  
Application No.: 09/825,078  
Filed: April 3, 2001  
Page 17

determine one or more TQoS values to be applied to related messages and annotate related messages with the TQoS values; 2) that such annotated messages could be transmitted from the server computer to a client computer, and received by the client computer; and 3) that the TQoS values from received annotated messages can be transmitted from the client computer to the server computer with subsequent ones of the related messages.

For at least these reasons Applicants submit that amended Claim 1 is patentable over Hill in view of Ben-Shaul and in further view of Cooklev.

Independent Claims 19 and 37 have been amended to include the recitations of dependent Claims 22 and 40 and, thereby, are system and computer program product claims that have similar recitations to amended Claim 1. Consequently, Claims 19 and 37 are submitted to be patentable at least for the reasons explained above for Claim 1.

The dependent claims are patentable at least per the patentability of the independent claims from which they depend. Moreover, these claims are submitted to provide further bases for patentability.

**Dependent Claims 52-57 Are Patentable Over Hill in view of Ben-Shaul and further in view of Foladare**

Dependent Claim 52 recites:

52. The method according to claim 1, further comprising storing the TQoS values as one or more cookies on the client computer.

Accordingly, Claim 52 further defines that TQoS values, which are received within annotated messages from a server computer, are stored as one or more cookies on the client computer.

The Office Action contends that Foladare "teaches values are stored as cookies in the headers (Foladare: col. 7, lines 45-65). The cited portion of Foladare teaches that cookies are communicated from a client to a server. However, none of these references discloses that TQoS values which are received from a server within an annotated message can be stored as one or more cookies on the client computer. Moreover, these references do not disclose that after the TQoS values are stored in cookies on the client computer they can be transmitted from the client computer to a server computer with related messages, as recited by Claim 52 in combination with Claim 1.

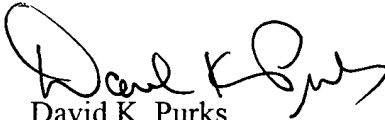
For at least these reasons Applicants submit that Claim 52 and analogous Claims 54 and 56 are patentable over Hill in view of Ben-Shaul and further in view of Foladare.

In re: Roberto DeLima et al.  
Application No.: 09/825,078  
Filed: April 3, 2001  
Page 19

### CONCLUSION

Applicants respectfully request entry of the present claim amendments as placing the claims in condition for allowance, or alternatively as placing the claims in better condition for appeal and narrowing the issues for further consideration on appeal. No new issues are raised by the present claim amendments. In light of the above amendments and remarks, Applicants respectfully submit that the above-entitled application is now in condition for allowance. Favorable reconsideration of this application, as amended, is respectfully requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (919) 854-1400.

Respectfully submitted,



David K. Purks  
Registration No. 40,133

**USPTO Customer No. 46589**  
Myers Bigel Sibley & Sajovec  
Post Office Box 37428  
Raleigh, North Carolina 27627  
Telephone: 919/854-1400  
Facsimile: 919/854-1401